

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 1:16CR00058AGF (ACL)
)	
JAMES CLAY WALLER, II,)	
)	
Defendant.)	

**GOVERNMENT'S REQUEST FOR PRETRIAL DISCLOSURE
OF EVIDENCE OR INFORMATION**

Comes now the United States of America, by and through its attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and Larry H. Ferrell, Assistant United States Attorney for said District, and pursuant to this Court's Order Concerning Pretrial Motions filed May 24, 2016, the Government makes the following request:

**A. GOVERNMENT'S REQUEST FOR PRODUCTION OF
STATEMENTS OF WITNESSES**

Pursuant to Rule 26.2 of the Federal Rules of Criminal Procedure, the Government requests that the defendant produce, for the examination and use of the Government, any statement of a witness called on behalf of the defense, that is in the possession of the defense and that relates to the subject matter concerning which the witness testified. In support thereof, the Government states and alleges as follows:

Rule 26.2 of the Federal Rules of Criminal Procedure provides that after a witness other than defendant has testified on direct examination, the Court on motion of a party who did not call the witness, shall order the attorney for the Government or the defendant and the defendant's attorney, as the case may be, to produce, for the examination and use of the moving party, any

statement of the witness that is in their possession and that relates to the subject matter concerning which the witness has testified.

WHEREFORE, the Government requests that the defendant produce at the appropriate time and place any statements of witnesses in their possession that relates to the subject matter concerning which the witness has testified.

B. GOVERNMENT'S REQUEST FOR NOTICE OF ALIBI WITNESSES

The Government requests that the defendant disclose alibi witnesses. In support thereof, the Government states that the time, date and place in which the alleged offense was committed are:

Count I:

(a) Time: Approximately 8:00 a.m. – 5:00 p.m.

(b) Date: June 1, 2011

(c) Place: 1121 Woodlawn Drive, Jackson, Missouri

Rule 12.1 of the Federal Rules of Criminal Procedure requires that upon written demand by the Government stating the time, date, and place of which the alleged offense was committed, defendant shall serve within ten (10) days, or at such different time as the Court may direct, upon the attorney for the Government a written notice of defendant's intention to offer a defense of alibi, stating the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the defendant intends to rely to establish such alibi.

WHEREFORE, the Government, having complied with the terms of Rule 12.1 of the Federal Rules of Criminal Procedure and this Court's Order Concerning Pretrial Motions, requests that the defendant disclose his intention to offer a defense of alibi by August 2, 2016.

**C. GOVERNMENT'S REQUEST FOR DISCLOSURE PURSUANT TO
RULE 16 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE**

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, the Government requests that the defendant produce the following:

A. Documents and Tangible Objects

Rule 16(b)(1)(A) provides that upon compliance with defendant's request for the production of documents and tangible objects under subdivision (a)(1)(C) or (D) of Rule 16 of the Federal Rules of Criminal Procedure, the defendant, upon request of the Government, shall permit the Government to inspect and copy or photograph books, papers, documents, photographs, tangible objects, or copies of portions thereof, which are within the possession, custody, or control of the defendant and which the defendant intends to introduce as evidence in chief at the trial.

B. Reports of Examinations and Tests

Rule 16(b)(1)(B) provides that if the defendant requests disclosure under subdivisions (a)(1)(C) or (D) of this rule, upon compliance with such request by the Government, the defendant, on request of the Government, shall permit the Government to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce as evidence in chief at the

trial or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to that witness's testimony.

WHEREFORE, the Government requests that the defendant produce any and all documents and tangible objects and reports of examinations and tests as set forth under Rule 16(b) of the Federal Rules of Criminal Procedure.

C. Expert Witnesses

Rule 16(b)(1)(C) provides that if the defendant requests disclosure under subdivision (a)(1)(E) of this rule and the Government complies, the defendant, at the Government's request must disclose to the Government a written summary of testimony the defendant intends to use under Rule 702, 703, and 705 of the Federal Rules of Evidence as evidence at trial. This summary must describe the opinions of the witnesses, the bases and reasons therefor, and the witnesses' qualifications.

WHEREFORE, the Government requests that the defendant disclose a written summary of testimony the defendant intends to use under Rule 702, 703, and 705 of the Federal Rules of Evidence as evidence at trial in accordance with the requirements of Rule 16(b)(1)(C) of the Federal Rules of Criminal Procedure.

RICHARD G. CALLAHAN
UNITED STATES ATTORNEY

/s/ Larry H. Ferrell
LARRY H. FERRELL, #28874MO
ASSISTANT UNITED STATES ATTORNEY
555 Independence, 3rd Floor
Cape Girardeau, MO 63703
(573) 334-3736

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2016, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Scott F. Tilsen
Assistant Federal Public Defender

/s/ Larry H. Ferrell
Larry H. Ferrell, #28874MO
Assistant United States Attorney